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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,439	04/11/2006	Jun Asakura	NGB-40213	1889

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EXAMINER	
BATISTA, MARCOS	

ART UNIT	PAPER NUMBER
2617	

NOTIFICATION DATE	DELIVERY MODE
12/07/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/575,439	ASAKURA, JUN	
	Examiner	Art Unit	
	MARCOS BATISTA	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 October 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3 and 4* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 3 and 4* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This Action is in response to Applicant's amendment filed on 10/01/2009. Claims 1, 3, and 4 are now pending in the present application. This Action is made **NON-FINAL.**

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/01/2009 has been entered.

Response to Arguments

3. Applicant's arguments filed on 10/01/2009 have been fully considered but they are not persuasive.

After carefully revising the office action pertinent to the present response and remarks, the Examiner points out that the Applicant did not formulate any particular argument regarding the previous final rejection filed on 06/04/2009.

Therefore, the final rejection filed on 06/04/2009, which has been now adjusted to reflect the incorporation of the limitations of claim 2 into claim 1, still applies.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1, 3, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Go (US 6091938 A), hereafter "Go," in view of Ohta et al. (EP 1345389 A1), hereafter "Ohta," further in view of Mizuta et al. (US 20030211874 A1), hereafter " Mizuta."

Consider claim 1, Go discloses a voice input section (see fig. 5 #10, col. 3 lines 40-44); a voice output section (see col. 1 lines 44-49 – where Go discloses an audio circuit that is connected to the main body of telephone 300 of figure 1); a communication section for communicating a voice signal input from the voice input section to an intended party (see fig. 1, col. 3 lines 56-61 – Where Go discloses making a call, therefore using the telephone components shown in figure 1 (antenna)); a voice control unit which inhibits signal transmission from the voice input section to the voice output section and signal transmission from the voice input section to the

communication section for muting if the first and second cabinets are in a slide move from an open state to a closed state and which inhibits signal transmission from the voice input section to the voice output section and signal transmission from the voice input section to the communication section for muting if the first and second cabinets are in a slide move from the closed state to the open state based on output of the positional relation sensing unit (see col. 3 lines 30-35 and 64-67, col. 4 lines 1-3 – Where Go discloses using circuitry or software to eliminate noise caused by closing and opening the radio telephone and that can be transferred to the audio circuitry means by the microphone 10).

Go discloses claim 1 above, but does not particular refer to a positional relation sensing unit which senses the relative position relation between the first cabinet and the second cabinet and wherein the voice control unit continues the muting for predetermined time period from the point in time when the first and second cabinets enter the open state or the closed state from the transition state, and wherein the voice control unit releases the muting after the expiration of the predetermined time period. Ohta teaches a positional relation sensing unit which senses the relative position relation between the first cabinet and the second cabinet (see abstract, Fig 2 #159, pars. 0007 lines 1-8, 0020 lines 1-9); and wherein the voice control unit continues the muting for predetermined time period from the point in time when the first and second cabinets enter the open state or the closed state from the transition state, and wherein the voice control unit releases the muting after the expiration of the predetermined time period (see Fig 7 #S705, par. 0043 lines 1-12).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Go and have it include a positional relation sensing unit which senses the relative position relation between the first cabinet and the second cabinet and wherein the voice control unit continues the muting for predetermined time period from the point in time when the first and second cabinets enter the open state or the closed state from the transition state, and wherein the voice control unit releases the muting after the expiration of the predetermined time period, as taught by Ohta. The motivation would have been in order to provide means for detecting when the radio telephone is in either the open or closed position and to prevent a noise of the top lid from reaching the caller (see pars. 0007 lines 1-8, 0013 lines 1-16).

Go as modified by Ohta discloses claim 1 above, but does not particular refer to a mobile terminal apparatus which can be opened and closed as a first cabinet slides and moves relative to a second cabinet.

Mizuta teaches a mobile terminal apparatus which can be opened and closed as a first cabinet slides and moves relative to a second cabinet (see Fig 2 (a), Fig 4 (a), abstract, par. 0006 lines 1-6).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Go as modified by Ohta and have it include a mobile terminal apparatus which can be opened and closed as a first cabinet slides and moves relative to a second cabinet, as taught by Mizuta. The motivation would have been in order to provide portability and functionality conveniences to the user (see Fig 2 (a), Fig 4 (a), abstract, par. 0006 lines 1-6).

Consider claim 3, Go as modified by Ohta and Mizuta teaches claim 1 above, but does not particular refer to the positional relation sensing unit comprises: a magnetic material provided at least in one of the first cabinet and the second cabinet or a magnetic sensing element, provided in the cabinet opposed to the cabinet in which the magnetic material is disposed, for sensing a magnetic field of the magnetic material cabinet.

Mizuta discloses a magnetic material sensor provided at least in one of the first cabinet and the second cabinet (see Fig 11 #210, #106, [0031], [0036]); a magnetic sensing element, provided in the cabinet opposed to the cabinet in which the magnetic material is disposed, for sensing a magnetic field of the magnetic material cabinet (see Fig 11 #210, #106, [0031], [0036]). The motivation would have been in order to provide a positioning detection mechanism with respect to the opening or closing of the radio terminal (see Fig 11 #210, #106, [0031], [0036]).

Consider claim 4, Go as modified by Ohta and Mizuta teaches claim 1. Ohta also teaches the positional relation sensing unit comprises a switch which is provided at least in one of the first cabinet and the second cabinet and is pressed as the opposed cabinet makes a slide move (see Fig 6 #301, Fig 7 #S703, pars. 0040 lines 1-12, 0041 lines 1-10 – where Ohta teaches a controller that switches the muting section as the radio terminal opens/closes). The motivation would have been in order to operate the muting section to prevent a noise of the top lid opening/closing means from reaching the caller (see par. 0013 lines 1-16).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Marcos Batista, whose telephone number is (571) 270-5209. The Examiner can normally be reached on Monday-Thursday from 8:00am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Rafael Pérez-Gutiérrez can be reached at (571) 272-7915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

/Marcos Batista/
Examiner

/Rafael Pérez-Gutiérrez/
Supervisory Patent Examiner, Art Unit 2617

11/25/2009